

NEWS RELEASE

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For Immediate Release

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JURY RETURNS VERDICT IN MINE SAFETY TRIAL

Randy G. Massey, Acting United States Attorney for the Southern District of Illinois, announced today that on June 28, 2006, **LESTER ROBERT ERB, JR.**, age 48, formerly of Harrisburg, IL, and **LESTER ROBERT ERB, III**, age 28, formerly of Harrisburg, IL, were convicted following a three-day jury trial in United States District Court in Benton, Illinois.

LESTER ERB, JR., was convicted on all five counts. Counts 1, 2, and 3 of the Indictment charged **LESTER ROBERT ERB, JR.**, with making or using false Mine Safety and Health Administration Certificate of Training forms in violation of federal law. Counts 4 and 5 of the Indictment charged **LESTER ROBERT ERB, JR.**, with making material false statements and representations to employees of the Mine Safety and Health Administration in violation of federal law.

LESTER ERB, III, was convicted on two counts. Counts 6 and 7 of the Indictment charged **LESTER ROBERT ERB, III**, with making material false statements and representations to employees of the Mine Safety and Health Administration in violation of federal law.

This case arose out the April 9, 2003, death of coal miner Adam Scott and the subsequent investigation into the cause of his death. The evidence presented during the trial showed that Mr. Scott was buried under 15 tons of coal after his poorly maintained, company-owned dump truck's brakes failed and the truck rolled over. Mr. Scott was thrown from the vehicle which did not have seat belts. He was pinned under the truck and the load of coal fell on top of him. A subsequent investigation by the Mine Safety and Health Administration discovered numerous mechanical and other problems with the truck including, among other things: a significant leak in the service brake air line; black electrical tape had been applied to cover a hole in the brake air line; neither the parking brake nor the service brake would hold the truck on the ramp where it was being operated; the truck floor board had deteriorated to the extent that the brake pedal was not securely fastened to the floor board; the truck was difficult to steer

and to shift; and the locking mechanism on the driver's door was missing so the door would not stay closed.

On April 11, April 17, and April 18, 2003, hearings were held by Mine Safety and Health Administration ("MSHA") officials to help determine the cause of the accident which resulted in Adam Scott's death. During those hearings, **LESTER ROBERT ERB, JR.**, and **LESTER ROBERT ERB III**, made false statements to the MSHA investigators and specialists regarding material matters under their investigation, including the condition of the blue truck.

In addition, newly hired miners (both inexperienced and experienced) were required to receive training prior to beginning work at the mine site. **LESTER ERB, JR.**, would issue newly hired employees a false Mine Safety and Health Administration Certificate of Training form and would assign the employee to begin work without providing the employee with any training.

Each of the foregoing charges against the convicted defendants carries a possible penalty of up to 5 years imprisonment, a fine of up to \$250,000, and a term of supervised release of up to 3 years.

Co-defendant **TIM O. BOWEN**, age 33, formerly of Eldorado, IL, was found not guilty of two counts which charged him with making material false statements and representations to employees of MSHA.

Co-defendant **LARRY G. BUNNER**, age 34, of Cannelton, Indiana, had previously pleaded guilty to two counts charging him with making material false statements and representations to employees of the Mine Safety and Health Administration. He was previously sentenced in the United States District Court in Benton, Illinois, to 6 months imprisonment.

The investigation in this case was conducted by the Mine Safety and Health Administration.

The case was prosecuted by Assistant United States Attorneys George Norwood and James Cutchin.